

**REMARKS**

In response to the Advisory Action dated September 29, 2006, Applicants are filing an RCE accompanying this amendment. The amendment follows several voicemail exchanges between the undersigned and the Examiner, the substance of which are summarized below.

After receiving the Advisory Action, the undersigned called the Examiner seeking to set up a telephone interview with her and her supervisor. The Examiner was unavailable, but the undersigned left a voicemail indicating a desire to speak with the Examiner and her supervisor for the purpose of determining whether an agreement could be reached on any patentable subject matter in the application, or to reach a final resolution that no such agreement could be reached so that an Appeal would be necessary. The Examiner and the undersigned exchanged a handful of voicemail messages about logistics, most particularly relating to the Examiner's attempts to schedule a meeting with her supervisor. On November 20, 2006, the Examiner left a voicemail message indicating that she and her supervisor had conferred, and they believed the application could be placed into condition for allowance if the Applicant were willing to do the following:

- 1) incorporate the limitations of dependent claim 49 into each of the independent claims;
- 2) file an RCE along with the amendment; and
- 3) file a terminal disclaimer (while the voicemail did not specify the patent to which the terminal disclaimer should be directed, Applicants assume that the Examiner was referencing U.S. Patent No. 6,993,556).

Via this amendment, the accompanying RCE and the accompanying terminal disclaimer, Applicants have endeavored to fulfill the requirements that the Examiner's voicemail indicated would place the application in condition for allowance. The Examiner is requested to review the claims as amended to verify that they have been amended in the manner contemplated by the Examiners.

Applicants have filed the Terminal Disclaimer solely to advance prosecution of the pending application, particularly in view of the fact that it has minimal impact on the term of any patent issuing from this application. No double patenting rejection was made, and the Examiner's voicemail did not indicate which (if any) claims might

be impacted by a double patenting rejection. However, Applicants would like to make clear that the filing of a Terminal Disclaimer is not intended as an admission that any claims in the pending application are patentably indistinct with respect to any of the issued claims of the '556 patent, and rely upon the rulings of the Federal Circuit that the filing of the Terminal Disclaimer will not raise any presumption or estoppel issues impacting the merits of whether any of the claims in the present application are patentably indistinct from any of the claims of the '556 patent. (see, e.g., *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991)) ("filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection."); see also MPEP §804.02(II).

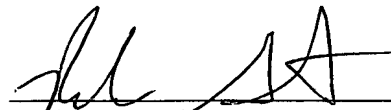
### CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,

By:

  
\_\_\_\_\_  
Richard F. Giunta, Reg. No. 36,149  
Wolf, Greenfield & Sacks, P.C.  
600 Atlantic Avenue  
Boston, Massachusetts 02210-2206  
Telephone: (617) 646-8000